

April 4, 1997

BY HAND DELIVERY

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, D.C. 20554

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**Re: CC Docket No. 96-128, Pacific Bell and Nevada Bell Comparably
Efficient Interconnection Plan for the Provision of Payphone
Service: Notice of Ex Parte Communication**

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Graham & James LLP

Dear Mr. Caton:

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On the afternoon of April 3, 1997, Martin Mattes of Graham & James, counsel for California Payphone Association ("CPA"), engaged in an ex parte discussion with Christopher Heiman, of the Policy Division staff of the Common Carrier Bureau, concerning issues presented in CPA's previously filed comments on the Pacific Bell and Nevada Bell Comparably Efficient Interconnection Plan ("Pacific CEI Plan") submitted in the above-referenced proceeding. In the course of this conversation, it appeared that some further elaboration of CPA's views might be helpful. This letter is intended both to report the previous ex parte communication and to provide a brief elaboration of CPA's previous comments on the following issues: (1) the need to protect against discriminatory access to customer-proprietary network information ("CPNI") of current or potential payphone location providers and semi-public telephone service customers; and (2) the need to provide notice and realistic choices to semi-public customers.

Mr. Mattes briefly discussed with Mr. Heiman CPA's concerns about Pacific Bell's responses to CPA's comments on the above issues. He emphasized the special marketing advantage given Pacific Bell's Public Communications Division ("PubCom") by its access to nonpublic information about new orders for business telephone service, which enables PubCom to approach such new subscribers to propose installation of payphones before competing payphone service providers ("PSPs") even know the new business exists. He also explained the situation of customers of semi-public telephone service, who often operate small businesses and subscribe to that service as an alternative to business service. He noted that the "flash-cut" detariffing of semi-public service will deprive these customers of regulatory oversight and give Pacific Bell PubCom unprecedented discretion to impose higher monthly

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charges, terminate their semi-public service, or sign them to multi-year service contracts. Because competing PSPs have no access to Pacific Bell's semi-public customer lists, he considered it likely, absent the Commission's intervention, that Pacific Bell PubCom would be free to impose its will on such customers without having to face effective competition.

It is appropriate for the Commission to consider these issues raised by CPA in the context of the Pacific CEI Plan because the Commission has specifically ordered the Bell Operating Companies ("BOCs") to explain in their CEI plans how they will comply with CPNI requirements and because the Commission has stated that its CEI plan review will evaluate the application of nondiscrimination safeguards to the provision of payphone services. Report and Order, ¶ 205; Order on Reconsideration, ¶ 220. Indeed, the more fundamental protection against discrimination provided by Section 202 of the Communications Act also warrants the Commission's consideration of the issues CPA has raised.

CPA sincerely hopes that the Commission will conclude that the Pacific CEI Plan must be revised to ensure against unfair use by PubCom of location providers' and semi-public customers' CPNI and against PubCom's exploitation of its semi-public customers. If the Commission finds procedural impediments against taking such necessary action, CPA would ask that the Commission at least express its serious concern about these problems and invite state regulatory authorities to address them through their proceedings to implement other aspects of Section 276 and the Commission's orders adopted pursuant thereto.

If there are any questions about this matter, please contact the undersigned at (415) 954-0313.

Very truly yours,



Martin A. Mattes
of

GRAHAM & JAMES LLP

cc: Christopher Heiman, Policy and Program Planning Division,
Common Carrier Bureau

Our File: 16063.9

